
DEVELOPMENT ACT, 1970

(Act No. XIX of 1970)

THE JAMMU AND KASHMIR DEVELOPMENT ACT, 1970

(ACT NO. XIX OF 1970)

CONTENTS.

Section.	Section.
	CHAPTER I
	PRELIMINARY
1. Short title, extent and commencement.	11. Date of operation of plan in contravention of plans.
2. Definitions.	11-A. Permitted land use and levy of land use charges.
	CHAPTER IV
	MODIFICATIONS TO THE MASTER PLAN AND THE ZONAL DEVELOPMENT PLAN
	CHAPTER II
	DEVELOPMENT AUTHORITY AND ITS OBJECT
3. Declaration of local area and constitution of development Authority.	12. Modifications to Plan.
4. Members of Authority	12-A. Adoption of scheme sanctioned under the Town Planning Act as Zonal Development Plan.
5. Appointment of Staff.	CHAPTER V
6. Object of the Authority.	DEVELOPMENT
	CHAPTER III
	MASTER PLAN AND ZONAL DEVELOPMENT PLANS
7. Civic Survey of , and master plan for the area.	13. Declaration of development area and permission for development etc.
8. Zonal Development Plans.	14. Application for permission.
9. Submission of plans to the Government for approval.	15. User of land and buildings.
10. Procedure to be followed in the preparation and approval of plans.	15-A. Power of the Authority to undertake building operations.
	CHAPTER VI
	ACQUISITION AND DISPOSAL OF LAND
	16. Compulsory acquisition of land.

Section.	Section.
17. Disposal of land by the Authority.	22-D. Disqualifications.
18. Nazul Lands.	22-E. Term.
18-A. Reservation of land for housing to economically weaker sections and low income groups in scheme and projects developed by the Development Authority or private developer.	22-F. Meetings.
18-B. Identification of eligible persons and determination of cost of land or houses.	22-G. Removal of Director.
18-C. Incentives to developers.	22-H. Filling of Vacancy.
18-D. Non-residential development.	22-I. Government to appoint person to act as Director in certain cases.
18-E. Utilization of shelter fee.	22-J. Defect not to invalidate proceedings.
	22-K. Managing Director and Chief Accounts Officer.
	22-L. Functions of Corporation.
	22-M. Powers of Corporation.
	22-N. Authentication of Documents etc.
	22-O. Power of Government to Issue Directions.
	22-P. Finance, accounts and audit.
	22-Q. Funds.
	22-R. Grants, Loans and Advances to the Corporation.
	22-S. Power to Borrow Money.
	22-T. Accepting of Deposits.
	22-U. Reserve and Other Specially Denominated Funds.
	22-V. Authority to spend Sums.
	22-W. Annual Financial Statements.
	22-X. Books of Account.

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT

19. Fund of the Authority.
 20. Budget of the Authority.
 21. Accounts and Audit.
 22. Pension and provident Funds.

CHAPTER VII-A

JAMMU AND KASHMIR
INDUSTRIAL DEVELOPMENT
CORPORATION

- 22-A. Definitions.
 22-B. Establishment and Constitution of the Corporation.
 22-C. Composition of the Corporation.

Section.	Section.
22-Y. Audit of Accounts.	22-AQ. Power of Government in case of Default by the Corporation.
22-Z. Acquisition and Disposal of Land.	22-AR. Dissolving of Corporation.
22-AA. Land to be Placed at the Disposal of the Corporation.	22-AS. No Court to take Cognizance of any Offence under this Chapter.
22-AB. Supplementary and miscellaneous provisions under this Chapter.	22-AT. Compounding of Offence.
22-AC. Demolition of Erection of any Building in Certain Cases.	22-AU. Offence Committed by Company.
22-AD. Discontinuation of Erection of any Building in Certain Cases.	22-AV. Penalty for Obstruction of Entry of an Authorized Person.
22-AE. Penalties.	22-AW. Penalty for Obstruction or Molestation of any Person with whom the Corporation has entered into Contract.
22-AF. Other Powers of Corporation.	22-AX. Penalty for Removal of any Mark.
22-AG. Power to Enter into/or upon any Land or Building.	22-AY. Penalty for Obstruction of the Lawful Exercise of any Power.
22-AH. Controller or Licensing Authority.	22-AZ. Power to make Rules.
22-AI. Amenity.	22-AAA. Power to make Regulations.
22-AJ. Lease of Land.	22-AAB. Act done in good faith.
22-AK. Mode of Recovery.	22-AAC. Requirement of prior notice for filing of Suit.
22-AL. Service of Notice etc.	22-AAD. Public Servants.
22-AM. Public Notice to be in Writing.	22-AAE. Overriding effect.
22-AN. Prescribing of Time under Notice.	22-AAF. Power to remove difficulties.
22-AO. Duty of Corporation to furnish Returns etc. to Government.	
22-AP. Power of Government to exclude Industrial Estate from the Jurisdiction of Corporation.	

CHAPTER VIII

SUPPLEMENTAL AND
MISCELLANEOUS PROVISIONS

Section.

23. Powers of entry.
24. Penalties.
25. Order of demolition of building.
26. Power to stop development.
27. Offences by companies.
28. Fines when realised to be paid to authority.
29. Composition of Offences.
30. Default powers of Authority.
31. Powers of Authority to require local authority to assume responsibility for amenities in certain cases.
32. Power of levy betterment charges.
33. Assessment of betterment charges by Authority.
34. Settlement of betterment charges by arbitrators.
35. Payment of betterment charge.
36. Mode of recovery of moneys due to Authority.
37. Control by Government.
38. Return and information.
39. Services of notices, etc.
40. Public notice how to be made known.

Section.

41. Notice etc. to fix reasonable time.
42. Authentication of orders and documents of Authority.
43. Members and officers to be public servants.
44. Sanction of prosecution.
45. Magistrate's power to impose enhanced penalties.
46. Protection of action taken in good faith.
47. Power to delegate.
48. Notice to be given of suits.
49. Savings.
50. Plans to stand modified in certain cases.
51. Power to make rules.
52. Power to make regulations.
53. Dissolution of the Authority.
54. Cessation of the provisions of certain Acts.
55. Power to remove difficulty.
56. Repeal and Saving.
57. Development of Housing Colonies outside local area.

THE JAMMU AND KASHMIR DEVELOPMENT ACT, 1970**(Act No. XIX of 1970)**

[Received the assent of the Governor on 31st of October, 1970 and published in Government Gazette dated 31st October, 1970 (Extra).]

An Act to provide for the development of the ¹[Union territory of Jammu and Kashmir] according to plan and for matters ancillary thereto.

Be it enacted by the Jammu and Kashmir State Legislature in the Twenty-first Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Jammu and Kashmir Development Act, 1970.

(2) It extends to the ²[whole of the Union territory of Jammu and Kashmir].

³(3) It shall come into force on such date as the Government may, by notification in the ^{*}[Government Gazette] appoint and different dates may be appointed for different parts of the ¹[Union territory of Jammu and Kashmir].

2. *Definitions.*—In this Act, unless the context otherwise requires,—

- (a) “amenity” includes road, street lighting, drainage, sewerage, public works and such other convenience as the Government may, by notification in the ^{*}[Government Gazette], specify to be an amenity for the purposes of this Act ;
- (b) “building” includes any structure or erection or part of a structure or erection which is intended to be used for residential, industrial, commercial or other purposes, whether in actual use or not ;
- (c) “building operations” includes re-building operation, structural alterations of or additions to buildings and other operations normally undertaken in connection with the construction of buildings ;

1. Substituted for “State” by S.O. 3808 (E) dated 26.10.2020.

2. Substituted for “whole of the State” *ibid.*

* Now Official Gazette.

3. Enforced effect from 31st October, 1970 by Notification SRO-518 dated 31-10-1970.

(d) “development” with its grammatical variations means the carrying out of building, engineering quarrying or extraction or manufacture of building materials or other operations in, on, over or under land, or “erecting or re-erecting” of any building or land and includes re-development ;

¹[(da) “economically weaker section” means such class of persons, ²[x x x x], as may be notified by the Government from time to time, for the purpose of providing housing sites of the dimension ³[as may be prescribed] ;

(db) “floor space index” means the area that can be constructed on a piece of land divided by the total area of the land ;

(dc) “group housing” means more than two buildings on a plot with one or more floors and with one or more dwelling units in each floor] ;

(e) “Local Area” means any area declared to be a local area under sub-section (1) of section 3 ;

⁴[(ea) “low income group” means such class of persons, ²[x x x x], as may be notified by the Government from time to time, for the purpose of providing housing sites which may be of dimension ³[as may be prescribed] ;

(f) “engineering operations” includes the formation of laying out of means of access to a road or the laying out of means of water supply or any other amenity ;

(g) “means of access” includes any means of access whether private or public, for vehicles or for foot passenger, and includes a road ;

(h) “regulation” means a regulation made under this Act by the Development Authority constituted under section 3 ;

(i) “rule” means a rule made under this Act ;

⁴[(ia) “shelter fee” means fee levied and collected in lieu of the reservation of land or floor area, as the case may be, being an amount equal to the market value of the land or floor area determined on the basis of the

1. Clauses (da), (db) and (dc) inserted by Act XII of 2012, s. 2.

2. Words “being permanent resident of the State” omitted by S.O. 3808 (E) dated 26.10.2020.

3. Substituted for certain words ibid.

4. Clauses (ea) and (ia) inserted by Act XII of 2012, s. 2.

rates notified by the Government, which is required to be reserved for the economically weaker section and the lower income groups] ;

- (j) “to erect or re-erect” in relation to any building includes—
- (i) any material alteration or enlargement of any building ;
 - (ii) the conversion by structural alteration into a place for human habitation of any building not originally constructed for human habitation ;
 - (iii) the conversion into more than one place for human habitation of any building originally constructed as one such place ;
 - (iv) the conversion of two or more places of human habitation into a greater number of such places ;
 - (v) such alteration of a building as affect an alteration of its drainage or sanitary arrangements or materially affect its security ;
 - (vi) the addition of any rooms, buildings, houses or other structures to any building ;
 - (vii) the construction in a wall adjoining any street or land not belonging to the owner of the wall, of a door opening on to such street or land ; and
 - (viii) reconstruction of a building or a portion thereof ;
- (k) “Zone” means any one of the divisions in which a local area may be divided for the purposes of development under this Act ;
- (l) the expression “land” and the expression “person interested” shall have the meaning respectively assigned to them in ¹[the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013)] ;
- ²[(m) “Strategic Areas” means an area notified as Strategic Area under sub-section (3) of section 3 of this Act.]

1. Substituted for “section 3 of the Land Acquisition Act, 1990” by S.O. 3808 (E) dated 26.10.2020.
 2. Clause (m) inserted *ibid*.

CHAPTER II

DEVELOPMENT AUTHORITY AND ITS OBJECTS

3. *Declaration of local area and constitution of Development Authority.*—

(1) As soon as may be after the commencement of this Act, the Government may, by notification in the *[Government Gazette], declare any area to be local area for purposes of this Act and constitute therefor an authority to be called the Development Authority hereinafter referred to as the Authority.

(2) The Authority shall be a body corporate by the name of the Local Area having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall in the said name sue and be sued.

¹[(3) Notwithstanding anything contained in this Act, the Government may on the written request of an Army officer not below the rank of Corp Commander, declare an area as Strategic Area within a local area, only for direct operational and training requirements of armed forces, which may be excluded from the operation of this Act and rules/regulations made there under in the manner and to the extent specified in the declaration and the Government may satisfy itself about the reasons cited for declaring the area as strategic area and will have such area notified accordingly with such conditions as may be required.]

4. *Members of the Authority.*—(1) The Authority shall consist of ²[12] members including a ³[Chairman and Vice-Chairman] all of whom shall be appointed by the Government on such terms and conditions as the Government may specify.

(2) The members of the Authority appointed under sub-section (1) shall hold office for such time as the Government may by notification determine.

5. *Appointment of Staff.*—⁴[Subject to any rule, regulation, order or instruction issued in this behalf by the Government, the authority] may appoint such officers and employees (including experts for technical work) as are necessary and may assign to them such duties and pay such salary and allowance as it may determine from time to time ; provided that the appointment of officers on post carrying a maximum pay scale which exceeds Rs. ⁵[950] per month shall be made after prior approval of the Government.

* Now Official Gazette.

1. Sub-section (3) inserted by S.O. 3808 (E) dated 26.10.2020.

2. Substituted for the figure “9” by Act XII of 2012, s. 3.

3. Substituted by Act X of 1977, s. 2.

4. Substituted for “The Authority” by S.O. 3808 (E) dated 26.10.2020.

5. Substituted by Act VIII of 1974, s.2.

6. *Objects of the Authority.*— The objects of the Authority shall be to promote and secure the development of the local area for which it is constituted, according to plan and for that purpose the Authority shall have the power to acquire, hold, manage and dispose of land and other property, to carry out building, engineering and other operations, to execute works in connection with supply of water and electricity, disposal of sewerage and other services and amenities and generally to do anything necessary or expedient for purposes of such development and for purposes incidental thereto :

Provided that save as otherwise provided in this Act, nothing contained in this Act shall be constructed as authorising the disregard by the Authority of any law for the time being in force.

CHAPTER III

MASTER PLAN AND ZONAL DEVELOPMENT PLANS

7. *Civic Survey of, and master plan for the area.* —(1) An Authority shall, as soon as may be, carry out a civic survey of and prepare a master plan for the Local Area for which it is constituted.

(2) The master plan shall—

- (a) define the various zones into which the Local Area may be divided for the purposes of development and indicate the manner in which the land in each zone is proposed to be used (whether by the carrying out thereon of development or otherwise) and the stages by which any such development shall be carried out ; and
- (b) serve as a basic pattern of frame-work within which the zonal development plans of the various zones of the Local Area may be prepared.

(3) The master plan may provide for any other matter which is necessary for the development of the Local Area.

8. *Zonal Development Plans.* —(1) Simultaneously with the preparation of the master plan or as soon as may be thereafter, the Authority shall proceed with the preparation of a zonal development plan (hereinafter referred to as the zonal plan) ¹[for such zones which are declared as development areas under section 13] and shall propose a date or dates from which development plan of ²[each such zone] shall operate.

1. Substituted for certain words by S.O. 3808 (E) dated 26.10.2020.

2. Substituted for “each zone” *ibid.*

(2) A zonal development plan may—

- (a) contain a site-plan and use-plan for the development of the zone and show the approximate locations and extents of land uses proposed in the zone for such things as public buildings and other public works and utilities, roads, housing recreation, industry, business, markets, schools, hospitals and public and private open spaces and other categories of public and private uses ;
- (b) specify the standards of population density and building density ;
- (c) show every area in the zone which may, in the opinion of the Authority, be required or declared for development or re-development ; and
- (d) in particular, contain provisions regarding all or any of the following matters, namely :—
 - (i) the division of any site into plots for the erection of buildings ;
 - (ii) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets and other public purposes ;
 - (iii) the development of any area into a township or colony and the restrictions and conditions subject to which such development may be undertaken or carried out ;
 - (iv) the erection of buildings on any site and the restrictions and conditions in regard to the open spaces to be maintained in or around buildings and height and character of buildings ;
 - (v) the alignment of buildings of any site ;
 - (vi) the architectural features of the elevation or frontage of any building to be erected on any site ;
 - (vii) the number of residential buildings which may be erected on any plot or site ;
 - (viii) the amenities to be provided in relation to any site or buildings on such site whether before or after the erection of buildings and the person or authority by whom or at whose expense amenities are to be provided ;

- (ix) the prohibitions or restrictions regarding erection of shops, workshops, warehouses or factories or building of a specified architectural feature or building designed for particular purposes in the locality ;
- (x) the maintenance of walls, fences, hedges or any other structural or architectural construction and the height at which they shall be maintained ;
- (xi) the restriction regarding the use of any site for purposes other than erection of buildings ; and
- (xii) any other matter which is necessary for the proper development of the zone or any area thereof according to plan and for preventing building being erected haphazardly in such zone or area.

9. *Submission of plans to the Government for approval.*—Every master plan and zonal plan shall, as soon as may be after its preparation, be submitted by the Authority to the Government alongwith a proposal relating the date of operation of the zonal plan and the Government may either approve the plan and the proposal without modification or with such modifications as it may consider necessary or reject the plan with directions to the Authority to prepare a fresh plan according to such directions.

10. *Procedure to be followed in the preparation and approval of plans.*—
(1) Before preparing any plan finally and submitting it to the Government for approval, the Authority shall prepare a plan in draft and publish it by making a copy thereof available for inspection and publishing a notice in such form and manner as may be prescribed by rules made in this behalf inviting objections and suggestions from any person with respect to the draft plan before such date as may be specified in the notice.

(2) The Authority shall also give reasonable opportunity to every local authority within whose local limits any land touched by the plan is situated to make any representation with respect to the plan.

(3) After considering all objections, suggestions and representations that may have been received by the Authority, the Authority shall finally prepare the plan and submit it to the Government for its approval.

(4) Provisions may be made by rules in this behalf with respect to the form and content of a plan and with respect to the procedure to be followed and any other matter, in connection with the preparation, submission and approval of such plan.

(5) Subject to the foregoing provisions of this section, the Government may direct the Authority to furnish such information as the Government may require for the purposes of approving any plan submitted to it under this section.

¹[11. *Date of Operation of Plan.*—Immediately after the ²[Master or a Zonal Plan] and their dates of operation have been approved by the Government, it shall declare the area for the Master Plan or for a Zone, as the case may be, for the purposes of the Act and shall also publish in the * [Government Gazette a notice indicating the approval of the plan and the date of its operation and name of the place where a copy of the plan may be inspected at all reasonable hours].

³[11-A. *Permitted land use and levy of land use charges.*—(1) Upon coming into operation of the master plan or a zonal plan, the land use permitted in the area covered thereunder shall only be as provided in terms of such master or zonal plan. The provisions of the Jammu and Kashmir Agrarian Reforms Act, 1976, Jammu and Kashmir Land Revenue Act, Samvat 1996 or any other law for the time being in force requiring any permission to change the usage of any land, shall not be applicable to any land so covered.

(2) The Government may, by notification in the Official Gazette, notify a scheme for levy of charges for use of land as permitted in the master plan or the zonal plan, the proceeds whereof shall form part of the fund of the Authority and may be used to defray the expenses incurred on acquisition of land that may be required to be acquired in terms of section 50.]

CHAPTER IV

MODIFICATION TO THE MASTER PLAN AND THE ZONAL DEVELOPMENT PLAN

12. *Modifications to Plan.*—(1) The Authority may make any modifications to the master plan or the zonal plan as it thinks fit being modifications which, in its opinion, do not effect important alterations in the character of the plan and which do not relate to the extent of land uses or the standards of population density.

(2) The Government may make any modifications to the master plan or the zonal plan whether such modifications are of the nature specified in sub-section (1) or otherwise.

1. Section 11 substituted by Act IV of 2001, s. 2.

2. Substituted by S.O. 3808 (E) dated 26.10.2020.

3. Section 11-A inserted *ibid.*

* Now Official Gazette.

(3) Before making any modification to the Plan, the Authority or, as the case may be, the Government shall publish a notice in such form and manner as may be prescribed by rules made in this behalf inviting objection and suggestions from any person with respect to the proposed modifications before such date as may be specified in the notice and shall consider all objections and suggestions that may be received by the Authority or the Government.

(4) Every modification made under the provision of this section shall be published in such manner as the Authority or the Government, as the case may be, may specify and the modification shall come into operation either on the date of the publication or on such other date as the Authority or the Government may fix.

(5) When the Authority makes any modifications to the Plan under subsection (1), it shall report to the Government the full particulars of such modifications within thirty days of the date on which such modifications come into operation.

(6) If any question arises whether the modifications proposed to be made by the Authority are modifications which effect important alterations in the character of the Plan or whether they relate to the extent of land-uses or the standards of population density, it shall be referred to the Government whose decision thereon shall be final.

(7) Any reference in any other Chapter, except Chapter III, to the master plan or the zonal development plan shall be construed as a reference to the master plan or the zonal plan as modified under the provisions of this section.

¹[12-A. *Adoption of scheme sanctioned under the Town Planning Act, 1963 as a zonal development plan.*—Notwithstanding anything contained in this Act or in the Jammu and Kashmir Town Planning Act, 1963 or in any other law for the time being in force,—

(1) If at any time the Government decides that scheme sanctioned under the Jammu and Kashmir Town Planning Act, 1963 in respect of any area which is included in a local area under this Act, may be adopted as a zonal development plan under this Act, the Government may, by notification in the *[Government Gazette],—

- (a) declare the area covered under the plan so adopted as a zone for purposes of this Act ;
- (b) adopt such scheme as a zonal development plan in respect of that area for purposes of this Act ; and

1. Section 12-A added by Act XVI of 1972, s.2.

* Now Official Gazette.

- (c) specify a date of operation of the zonal development plan so adopted and the name of the place where a copy of the plan may be inspected at all reasonable times.

(2) The Government may by notification also direct that in respect of acquisition of immovable property, if any, required for the purpose of the said zonal development plan, the provisions of Chapter VI of the Jammu and Kashmir Town Planning Act, 1963 shall apply *mutatis mutandis* as if the said zonal development plan were a scheme for purposes of the said Chapter.

(3) Every zonal development plan adopted under this section shall be deemed to have been validly prepared by the Development Authority and approved by the Government under this Act.

(4) Upon the publication of a notification under sub-section (1) nothing in—

- (a) the provisions of Chapters III and IV of this Act ;
- (b) the provisions of the Jammu and Kashmir Town Planning Act, 1963 except so far as provided in this section ;

shall apply to any zonal plan but in the application of the other provisions of this Act to such zonal plan—

- (i) in section 13 reference to section 11 shall be constructed as reference to clause (c) of such sub-section (1) of this section ;
- (ii) in sub-section (3) of section 14, the words, brackets, figures and letter, “in relation to any matter specified in clause (d) of sub-section (2) of section 8 or in relation to any other matter” shall be omitted ; and
- (iii) section 16 shall cease to apply as soon as a notification under sub-section (2) of this section is issued].

CHAPTER V

DEVELOPMENT

¹[13. *Declaration of development area and permission for development etc.* —(1) After a notice approving the date of operation of plan is published under section 11, the Authority may, with prior permission of the Government and by Section 13 substituted by S.O. 3808 (E) dated 26.10.2020.

notification in the Official Gazette, declare any zone or part thereof as development area for the purposes of this Act.

(2) Notwithstanding anything to the contrary contained in any law for the time being in force, consequent upon such notification, no person including a Department of the Government shall undertake or carry out development of any land or building in the zone unless permission for such development has been obtained in writing from the Authority in accordance with the provisions of this Act :

Provided that the development of any land undertaken by a Department of the Government or any local authority before the 31st day of October, 2019 may be completed by that Department or local authority.

(3) No person or entity, whether private or public, including a Department of the Government or any authority, shall undertake the implementation of any street or layout plan, in any form whatsoever, in the local area outside the limits of a Municipal Corporation established under the provisions of the Jammu and Kashmir Municipal Corporation Act, 2000, without the prior written permission of the Authority :

Provided that for the purposes of such permission, the Authority shall follow the procedure laid down in Chapter XIII of the Jammu and Kashmir Municipal Corporation Act, 2000, and any reference therein to the Corporation or the Commissioner shall be construed as reference to the Authority or the Vice-Chairman of the Authority, respectively :

Provided further that the restriction under this sub-section shall not apply to the development undertaken by or on behalf of the Metropolitan Region Development Authority established under the Jammu and Kashmir Metropolitan Region Development Authorities Act, 2018, or to a town planning scheme implemented under the provisions of the Jammu and Kashmir Town Planning Act, 1963.]

14. *Application for permission.*—(1) Every person including a Department of Government desiring to obtain the permission referred to in section 13 shall make an application in writing to the Authority in such form and containing such particulars in respect of the development to which the application relates as may be prescribed by regulations.

(2) Every application under sub-section (1) shall be accompanied by such fee as may be prescribed by rules :

Provided that no such fee shall be necessary in the case of an application made by a Department of the Government.

(3) On receipt of an application for permission under sub-section (1), the Authority after making such inquiry as it considers necessary in relation to any matter specified in clause (d) of sub-section (2) of section 8 or in relation to any other matter, shall, by order in writing, either grant the permission, subject to such conditions, if any, as may be specified in the order, or refuse to grant such permission :

Provided that before making an order refusing such permission, the applicant shall be given a reasonable opportunity to show cause why the permission should not be refused.

(4) Where permission is refused, the grounds of such refusal shall be recorded in writing and communicated to the applicant in the manner prescribed by regulations.

(5) The Authority shall keep in such form as may be prescribed by regulations a register of applications for permission under this section.

(6) The said register, shall contain such particulars including information as to the manner in which applications for permission have been dealt with as may be prescribed by regulations and shall be available for inspection by any member of the public at all reasonable hours on payment of such fee not exceeding rupees five as may be prescribed by regulations.

(7) Where permission is refused under this section, the applicant or any person claiming through him shall not be entitled to get refund of the fee paid on the application for permission but the Authority may, on the application for refund being made within three months of the communication of the grounds of the refusal under sub-section (4), direct refund of such portion of the fee as it may seem proper in the circumstances of the case.

15. *User of land and buildings in contravention of plans.*—After the coming into operation of ¹[a master or zonal plan in a zone] no person shall use or permit to be used any land or building in that zone otherwise than in conformity with such plan :

Provided that it shall be lawful to continue to use, upon such terms and conditions as may be prescribed by regulations made in this behalf, any land or building for the purposes and to the extent for and to which it is being used upon the date on which such plan comes into force.

¹[15-A. *Power of the Authority to undertake building operations.*—Notwithstanding anything contained in this Act, the Authority may undertake any building operations on behalf of the Government in any local area on such terms

1. Substituted for "a plan in a zone" by S.O. 3808 (E) dated 26.10.2020.

1. Section 15-A inserted by Act VIII of 1974, s. 3.

and conditions as may be mutually agreed upon by the Government and the Authority and nothing in this Act shall apply in respect of such building operations].

CHAPTER VI

ACQUISITION AND DISPOSAL OF LAND

16. *Compulsory acquisition of land.*—(1) If in the opinion of the Government, any land is required for the purpose of development, or for any other purpose under this Act, the Government may acquire such land under the provisions of¹[the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013)].

(2) Where any land has been acquired by the Government, the Government may, after it has taken possession of the land, transfer the land to the Authority for the purpose for which the land has been acquired on payment by the Authority of the compensation awarded under that Act and the charges incurred by the Government in connection with the acquisition.

17. *Disposal of land by the Authority.*—(1) Subject to any direction given by the Government under this Act, the Authority may dispose of—

- (a) any land acquired by the Government and transferred to it without undertaking or carrying out any development thereon ; or
- (b) any such land after undertaking or carrying out such development as it thinks fit ;

²[x x x] in such manner and subject to such terms and conditions as it considers expedient for securing the development of the area according to plan.

(2) The powers of the Authority with respect to the disposal of land under sub-section (1) shall be so exercised as to secure, so far as practicable, that persons who are living or carrying on business or other activities on the land shall, if they desire to obtain accommodation on land belonging to the Authority and are willing to comply with any requirements of the Authority as to its development and use, have an opportunity to obtain thereon accommodation suitable to their reasonable requirements on terms and settled with due regard to the price at which any land has been acquired from them :

Provided that where the Authority proposes to dispose of by sale any land without any development having been undertaken or carried out thereon, it shall

1. Substituted for "Land Acquisition Act, 1990" by S.O. 3808 (E) dated 26.10.2020.

2. Words "to permanent resident of the State" omitted *ibid.*

offer the land in the first instance, to the persons from whom it was acquired, if they desire to purchase it subject to such requirements as to its development and use as the Authority may think fit to impose.

(3) Nothing in this Act shall be construed as enabling the Authority to dispose of land by way of gift, mortgage or charge, but subject as aforesaid, reference in this Act to the disposal of land shall be construed as reference to the disposal thereof in any manner whether by way of sale, exchange or lease or by the creation of any easement right or privilege or otherwise.

18. *Nazul Lands.* —(1) The Government may, by notification in the *[Government Gazette] and upon such terms and conditions as may be agreed upon between the Government and the Authority, place at the disposal of the Authority all or any developed and undeveloped lands in the zone or the local area vested in the Government (known and hereinafter referred to as “Nazul Land”) for the purpose of development in accordance with the provisions of this Act.

(2) No development of any Nazul land shall be undertaken or carried out except by or under the control and supervision of the Authority after such Nazul land has been placed at the disposal of the Authority under sub-section (1).

(3) After any such Nazul land has been developed, by or under the control and supervision of, the Authority, it shall be dealt with by the Authority in accordance with rules made and directions given by the Government in this behalf.

(4) If any Nazul land placed at the disposal of the Authority under sub-section (1) is required at any time thereafter by the Government, the Authority shall, by notification in *[Government Gazette], place it at the disposal of the Government upon such terms and conditions as may be agreed upon between the Government and the Authority.

¹[18-A. *Reservation of Land for housing to economically weaker sections and low income groups in schemes and projects developed by the Development Authority or private developer.* —(1) In any Housing Scheme or Land Development/ Land Re-adjustment Scheme, whether undertaken by any authority or private developer, there shall be reservation of not less than ten per cent of the gross land area under each scheme for the purpose of providing housing accommodation to the members of economically weaker sections and low income groups.

(2) In all residential layouts of extent above 4000 square meters, not less than ten per cent of the gross area shall be earmarked for economically weaker sections and low income groups :

* Now Official Gazette.

1. Sections 18-A, 18-B, 18-C, 18-D and 18-E inserted by Act XII of 2012, s. 4.

Provided that where the total extent of land is between 1000 square meters and 4000 square meters, either land may be reserved for economically weaker sections and low income group or shelter fee may be collected.

(3) All residential layouts of extent below 1000 square meters may be exempted from reservation of land as well as payment of shelter fee.

(4) The size of the plot reserved under sub-sections (1) and (2) for economically weaker sections and low income groups shall not be less than 30 square meters or higher as may be prescribed by the Government.

(5) In all residential buildings with total plot area above 1000 square meter, not less than ten per cent of the floor area shall be reserved for economically weaker sections and low income groups by way of flats :

Provided that where the total plot area is between 500 square meters and 1000 square meters, either floor area may be reserved for economically weaker sections and low income groups or shelter fee may be collected.

(6) All residential buildings with plot area below 500 square meters may be exempted from reservation of floor area as well as payment of shelter fee.

(7) The size of the unit reserved under sub-section (5) for economically weaker sections and low income groups shall not be less than 25 square meters of carpet area or higher, as prescribed by the Government.

(8) The earmarking in sub-sections (1) and (5) shall be such that a minimum of 20 per cent of developed land or 20 per cent of floor space index in all land development or housing projects both by public and private agencies is reserved for the economically weaker sections and low income groups category taking into account the reservation at area plan or layout approval stage or group housing approval stages together.

18-B. Identification of Eligible Persons and Determination of cost of land or houses.—(1) A Government Department or agency of the Government, as may be prescribed, shall maintain an inventory of all the plots or houses, as the case may be, reserved for the economically weaker sections and the low income groups and ensure its protection from encroachment.

(2) For the allotment of plots or houses to the economically weaker sections and the low income groups, the procedure for the selection of eligible persons and the determination of the cost of such plots or houses shall be such as may be prescribed by the Government.

18-C. Incentives to Developers.—Every developer who makes provision for earmarking of land or floor area, as the case may be, for economically weaker sections and low income groups housing, shall be incentivized through a scheme of cross-subsidization, which shall be such, as may be prescribed by the Government including land use concessions through conversion of part of residential use for commercial use, Higher Floor Space Index, Transferable Development Right, etc and/or higher prices charged from Higher Income Groups.

18-D. Non-residential Development.—The Government shall consider levy of suitable fee like Impact fee on all non-residential land development and buildings above 1000 square meters to generate resources for the shelter fund which may be used for provision of land, housing, basic service, etc. to the urban poor.

18-E. Utilization of Shelter Fee.—The shelter fee collected shall be maintained in a separate account and will be utilized as per guidelines for the acquisition of land, development of land and construction of houses and in such other ways so as to provide for housing to economically weaker sections and low income groups].

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT

19. *Fund of the Authority.* —(1) The Authority shall have and maintain its own fund to which shall be credited—

- (a) all moneys received by the Authority from the Central or *[State Government] by way of grants, loans, advances or otherwise ;
- (b) all moneys borrowed by the Authority from sources other than the Government by way of loans or debentures ;
- (c) all fees and charges received by the Authority under this Act ;
- (d) all moneys received by the Authority from the disposal of lands, buildings and other properties, movable and immovable ; and
- (e) all moneys received by the Authority by way of rents and profits or in any other manner or from any other source.

(2) The funds shall be applied towards meeting the expenses incurred by the Authority in the administration of this Act and for no other purposes.

* Now Government of the Union territory of Jammu and Kashmir.

(3) The Authority may keep in current account of the Jammu and Kashmir Bank or any other Bank approved by the Government in this behalf such sum of money out of its fund, as may be prescribed by rules, and any money in excess of the said sum shall be invested in such manner as may be approved by the Government.

(4) The Government may make such grants, advances and loans to the Authority, as the Government may deem necessary, for the performance of the functions of the Authority under this Act, and all grants, loans and advances made shall be on such terms and conditions as the Government may determine.

(5) The Authority may borrow money by way of loans or debentures from such sources and on such terms and conditions as may be approved by the Government.

(6) The Authority shall maintain a sinking fund for the repayment of money borrowed under sub-section (5) and shall pay every year into the sinking fund such sum as may be sufficient for re-payment within the period fixed for all the moneys so borrowed.

(7) The sinking fund or any part thereof shall be applied in or towards the discharge of the loan for which such fund was created, and until such loan is wholly discharged it shall not be applied for any other purpose.

20. *Budget of the Authority.*— The Authority shall prepare in such form and at such time every year as may be prescribed by rules a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure of the Authority and shall forward to the Government such number of copies thereof as may be prescribed by rules.

21. *Accounts and Audit.*—(1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as the Government may by rules prescribe in consultation with such Auditor as the Government may by order specify.

(2) The Accounts of the Authority shall be subject to audit annually by the said Auditor and any expenditure incurred by the Auditor in connection with such audit shall be payable by the Authority to the said Auditor.

(3) The Auditor and any person appointed by him in connection with the audit of accounts of Authority, shall have the same right, privilege and authority in connection with such audit as the Accountant General of Jammu and Kashmir has in connection with the audit of Government accounts and in particular shall have

the right to demand the production of books, account, connected vouchers and other documents and papers and to inspect the office of the Authority.

(4) The accounts of the Authority as certified by the said Auditor or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Government and Government shall cause a copy of the same to be laid before ¹[Legislative Assembly of the Union territory of Jammu and Kashmir].

22. *Pension and provident funds.*—(1) The Authority shall constitute for the benefit of its whole time paid members and of its officers and other employees in such manner and subject to such conditions as may be prescribed by rules, such pension and provident funds as it may deem fit.

(2) Where any such pension or provident fund has been constituted, the Government may declare that the provisions of the ²[Employees Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952)] shall apply to such funds as if it were a Government Provident Fund.

³[CHAPTER VII-A

JAMMU AND KASHMIR INDUSTRIAL DEVELOPMENT CORPORATION

22-A. *Definitions.*— In this Chapter, unless the context otherwise requires,—

- (a) “amenity” includes road, supply of water or electricity, street lighting, drainage, sewerage, conservancy and such other convenience as the Government may, by notification in the Government Gazette, specify to be an amenity for the purposes of this Chapter ;
- (b) “building” means any structure or erection, or part of a structure or erection, which is intended to be used for residential, industrial, commercial or other purposes, whether in actual use or not ;
- (c) “Collector” means the Collector of a district, and includes any officer specially appointed by the Government to perform the functions of a Collector under this Chapter ;
- (d) “commercial centre” in relation to any industrial area or industrial estate means any site selected by the Government where the Corporation

1. Substituted for “both Houses of the Legislature” by S.O. 3808 (E) dated 26.10.2020.

2. Substituted for “Provident Funds Act, Svt. 1998” *ibid.*

Chapter VII-A inserted *ibid.*

builds shops and other buildings and makes them available for any commercial activity ;

- (e) “Corporation” means the Jammu and Kashmir Industrial Development Corporation or any other corporation(s) as notified by Government established under section 22-B ;
- (f) “Development” with its grammatical variations, means the carrying out of building, engineering, quarrying or other operations in, on, over or under land, or the making of any material change in any building or land, and includes re-development, but does not include mining operations; and “to develop” shall be construed accordingly ;
- (g) “engineering operations” include the formation of laying out of means of access to a road or the laying out of means of water supply ;
- (h) “Industrial area” means any area declared to be an industrial area by the Government by notification in the Government Gazette, which is to be developed and where industries are to be accommodated ;
- (i) “Industrial estate” means any site selected by the Government, where the Corporation builds factories and other buildings and makes them available for any industries or class of industries ;
- (j) “means of access” includes a road for any means of access, whether private or public, for vehicles or for pedestrians ;
- (k) “premises” means any land of building or part of a building and includes—
 - (i) the garden, grounds and out-houses, if any, appertaining to such building or part of a building ; and
 - (ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof ;
- (l) “prescribed” means prescribed by rules made under this Chapter ;
- (m) the expression “land” and the expression “person interested” shall have the meanings respectively assigned to them in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

22-B. Establishment and Constitution of the Corporation. —(1) For the purposes of securing and assisting in the rapid and orderly establishment, and organization of industries in industrial areas and industrial estates in the Union Territory of Jammu and Kashmir and for the purpose of establishing commercial centers in connection with the establishment and organization of such industries, there shall be established by the Government by notification in the Government Gazette, a Corporation by the name of the Jammu and Kashmir Industrial Development Corporation or any other corporation(s) as notified by Jammu and Kashmir Government .

(2) The Corporation shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be competent to acquire, hold and dispose of property, both movable and immovable, and to contract, and do all things necessary, for the purposes of this Chapter.

22-C. Composition of the Corporation. —(1) The Corporation shall consist of the following twelve Directors, namely :—

- (a) five official Directors nominated by the Jammu and Kashmir Government, of whom one shall be the Financial Adviser to the Corporation ;
- (b) one Director nominated by the Jammu and Kashmir State Power Development Department ;
- (c) one Director nominated by the Jammu and Kashmir Public Health engineering Department ;
- (d) four Directors nominated by the by Jammu and Kashmir Government, from amongst persons appearing to it either to be qualified by reason of experience of, and capability in, industry or trade or finance or to be suitable to represent the interest of persons engaged or employed therein ; and
- (e) the Managing Director of the Corporation, ex-officio, who shall also be the Secretary of the Corporation.

(2) The Governments shall appoint one of the Directors of the Corporation to be Chairman of the Corporation and may appoint one of the other Directors as Vice-Chairman.

22-D. Disqualifications.—A person shall be disqualified for being nominated as a Director of the Corporation, if he—

- (a) is an employee of the Corporation, not being the Managing Director thereof, or
- (b) is of unsound mind and stands so declared, by a competent court, or
- (c) is an un discharged insolvent.

22-E. *Term.* —(1) (a) The Chairman, Vice- Chairman and Directors of the Corporation nominated by the Government shall hold office during the pleasure of the Government.

(b) The director nominated under clauses (b) and (c) of sub-section(1) of section 22-C shall hold office during the pleasure of respective Board.

(2) The Directors of the Corporation nominated under clause (a) or (e) of sub-section (1) of section 22-C shall be entitled to draw such salary and allowances as may be prescribed. Such reasonable additional remuneration, as may be fixed by the Government, may be paid to any Director for extra or special services required to be rendered by him.

(3) The Directors of the Corporation nominated under clause (b), (c) or (d) of sub-section (1) of section 22-C shall be entitled to draw such honorarium of compensatory allowance for the purpose of meeting the personal expenditure in attending the meetings of the Corporation or of any Committee thereof or in doing or for performing any work connected with the functions of the Corporation which may be specially entrusted to them by the Corporation or by any Committee thereof as may be prescribed.

(4) Any person nominated as a Director shall, unless disqualified, be eligible for re nomination.

22-F. *Meetings.* —(1) The Corporation shall meet at such times and places, and shall subject to the provisions of sub-section (2) observe such rules of procedure in regard to the transactions of its business as may be provided by regulations.

(2) A Director, who is directly or indirectly concerned or interested in any contract, loan, arrangement or proposal entered into or proposed to be entered into, by or on behalf of the Corporation, shall at the earliest possible opportunity disclose the nature of his interest to the Corporation, and shall not be present at any meeting of the Corporation when the contract, loan, arrangement or proposal is discussed, unless his presence is required by the other Directors for the purpose of eliciting information, and shall not vote thereon :

Provided that, a Director shall not be deemed to be concerned or interested as aforesaid by reason only of his being a share-holder of a company concerned in any such contract, loan, arrangement or proposal.

22-G. Removal of Director.—(1) If a Director—

- (a) becomes subject to any of the disqualifications mentioned in section 22-D, or
- (b) tenders his resignation in writing to, and such resignation is accepted by, the Government, or
- (c) is absent without the Corporation's permission from three consecutive meetings of the Corporation, or from all meetings of the Corporation for three consecutive months, or
- (d) is convicted of an offence involving moral turpitude, he shall cease to be a Director of the Corporation.

(2) The Government may by order suspend from office for such period as it thinks fit, or remove from office any Director of the Corporation, who in its opinion—

- (a) has refused to act, or
- (b) has become incapable of acting, or
- (c) has so abused his position as Director as to render his continuance on the Corporation detrimental to the interest thereof or of the general public, or
- (d) is otherwise unfit to continue as a Director.

22-H. Filling of Vacancy.— Any vacancy of a Director of the Corporation shall be filled as early as practicable, and in like manner as if the nomination were being made initially :

Provided that, during any such vacancy the continuing Directors may act as if no vacancy had occurred.

22-I. Government to appoint person to act as director in certain cases.— (1) If the Chairman or any other Director of the Corporation is by reason of illness or otherwise rendered temporarily incapable of carrying out his duties, or is granted

leave of absence by the Government, or is otherwise unable to attend to his duties in circumstances not involving the cessation of his directorship under section 22-G, the Government may appoint another person to act in his place and carry out duties and functions entrusted to him by or under this Chapter until such Chairman or Director, as the case may be, resumes his duties.

(2) If a Vice-Chairman has been appointed in the absence of the Chairman, the Vice-Chairman shall be competent to carry out the duties and functions of the Chairman.

22-J. Defect not to invalidate proceedings.— No disqualification of, or defect in the appointment of any person acting as the Chairman or Vice-Chairman or a Director of the Corporation, shall vitiate any act or proceeding of the Corporation, if such act or proceeding is otherwise in accordance with the provisions of this Chapter.

22-K. Managing Director and Chief Accounts Officer.—(1) The Government shall appoint a Managing Director, and a Chief Accounts Officer of the Corporation.

(2) The Corporation may appoint such other officers and servants, subordinate to the officers mentioned in sub-section (1), as it considers necessary for the efficient performance of its duties and functions.

(3) The conditions of appointment and service of the officers and servants and their scales of pay shall—

- (a) as regard the Managing Director and the Chief Accounts Officer be such as may be prescribed, and
- (b) as regards the other officers, and servants, be such as may be determined by regulations

22-L. Functions of Corporation.— The functions of the Corporation shall be—

- (i) generally to promote and assist in the rapid and orderly establishment, growth and development of Industries in the Union Territory of Jammu & Kashmir, and
- (ii) in particular and without prejudice to the generality of clause (i) to—
 - (a) establish and manage industrial estates at place selected by the Government ;

- (b) develop industrial area selected by the Government for the purpose and make them available for undertakings to establish themselves ;
- (c) develop land on its own account of for the Government for the purpose of facilitating the location of industries and commercial centers thereon ;
- (d) assist financially by loans industries to move their factories into such estates or areas ;
- (e) undertake schemes for providing industrial units and commercial establishments with such structures and facilities as may be necessary for their orderly establishment, growth and development ;
- (f) promote, organize, sponsor or undertake schemes or works, either jointly with other corporate bodies or institutions, or with Government or local authorities, or on an agency basis, in furtherance of the purposes for which the Corporation is established and all matters connected therewith.

22-M. *Powers of Corporation.*— Subject to the provisions of this Chapter, the Corporation shall have power—

- (a) to acquire and hold such property, both movable and immovable as the Corporation may deem necessary for the performance of any of its activities, and to lease, sell, exchange or otherwise transfer any property held by it on such conditions as may be deemed proper by the Corporation;
- (b) to purchase by agreement or to take on lease or under any form of tenancy any land, to erect such buildings and to execute such other works as may be necessary for the purpose of carrying out its duties and functions ;
- (c) to provide or cause to be provided amenities and common facilities in industrial estates, commercial centers and industrial areas and construct and maintain or cause to be maintained works, buildings, amenities and common facilities thereof ;
- (d) to make available buildings on hire or sale to industrialists or persons intending to start industrial undertakings or commercial establishments or both the industrial undertakings and commercial establishments ;

- (e) to construct buildings for the housing of the employees of such industries or commercial establishments ;
- (f)
 - (i) to allot factory sheds or such buildings or parts of buildings, including residential tenements to suitable persons in the industrial estates established or the industrial areas developed by the Corporation ;
 - (ii) to allot shops and other buildings to suitable persons in commercial centers established by the Corporation ;
 - (iii) to modify or rescind such allotments, including the right and power to evict the allottees concerned on breach of any of the terms or conditions of their allotment ;
- (g) to constitute committees from amongst its Directors to perform any of its functions ;
- (h) to constitute advisory committees to advise the Corporation ;
- (i) to engage suitable consultants or persons having special knowledge or skill to assist the Corporation in the performance of its functions ;
- (j) to delegate any of its powers generally or specially to any of its committees or officers and to permit them to re-delegate specific powers to their subordinates ;
- (k) to enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of its functions ; and
- (l) to do such other things and perform such acts as it may think necessary or expedient for the proper conduct of its business and the carrying into effect the purposes of this Chapter.
- (m) Notwithstanding anything contained in any other law in force, the powers under Jammu and Kashmir Town Planning Act, 1963, Jammu and Kashmir Municipal Act, 2000 and Jammu and Kashmir Municipal Corporation Act, 2000 shall be exercised by the Corporation wherever necessary.

22-N. *Authentication of Documents etc.*— All permissions, orders, decisions, notices and other documents of the Corporation shall be authenticated by the

signature of the Managing Director of the Corporation or any other Officer authorized by the Corporation in this behalf.

22-O. Power of Government to Issue Directions.— The Government may from time to time issue to the Corporation such general or special directions of policy as it thinks necessary or expedient for the purposes of carrying out the purpose of this Chapter and the Corporation shall be bound to follow and act upon such directions.

22-P. Finance, accounts and audit.— All property funds and other assets vesting in the Corporation shall be held and applied by it, subject to the provisions of and for the purposes of this Chapter.

22-Q. Funds.—(1) The Corporation shall have and maintain its own funds, to which shall be credited—

- (a) all moneys received by the Corporation from the Government by way of grants, subventions, loans, advances or otherwise ;
- (b) all fees, costs and charges received by the Corporation under this Chapter ;
- (c) all moneys received by the Corporation from the disposal of lands, buildings and other properties, movable and immovable and other transactions ;
- (d) all moneys received by the Corporation by way of rents and profits or in any other manner or from any other source.

(2) The Corporation may keep in current or deposit account with the State Bank of India or any other Bank approved by the Government in this behalf such sum of money out of its fund as may be prescribed and any money in excess of the said sum shall be invested in such manner as may be approved by the Government.

(3) Such account shall be operated upon by such officers of the Corporation as may be authorized by regulations.

22-R. Grants, Loans and Advances to the Corporation.— The Government may make such grants, subventions, loans and advances to the Corporation as it may deem necessary for the performance of the functions of the Corporation under this Chapter and all grants, subventions, loans and advances made shall be on such terms and conditional as the Government may after consulting the Corporation determine.

22-S. *Power to Borrow Money.* —(1) The Corporation may, subject to such conditions as may be prescribed in this behalf, borrow money in the open market or otherwise with a view to providing itself with adequate resources.

(2) All moneys borrowed under sub-section (1) may be guaranteed by the Government as to the repayment of principal and the payment of interest at such rates and such conditions as the Government may determine at the time the moneys are borrowed.

Explanation.— The expression “to borrow money” with all its grammatical variations and cognate expressions includes, acceptance of deposits (not being deposits accepted under section 22-T) from the public for a specified period and on payment of interest thereon to the depositors at specified rates.

22-T. *Accepting of Deposits.*— The Corporation may accept deposits on such conditions as it deems fit from persons, authorities or institutions to which allotment or sale of land, buildings or sheds is made or is likely to be made in furtherance of the objects of this Act.

22-U. *Reserve and Other Specially Denominated Funds.* —(1) The Corporation shall make provision for such reserve and other specially denominated funds and in such manner and to such extent as the Government may, from time to time, direct.

(2) The management of the funds referred to in sub-section (1), the sums to be transferred from time to time to the credit thereof and the application of money comprised therein, shall be determined by the Corporation.

(3) None of the funds referred to in sub-section (1) shall be utilized for any purpose other than that for which it was constituted, without the previous approval of the Government.

22-V. *Authority to spend Sums.* —(1) The Corporation shall have the authority to spend such sums as it thinks fit for the purposes authorized under this Chapter from out of the general fund of the Corporation referred to in section 22-R or from the reserve and other funds referred to in section 22-V, as the case maybe.

(2) Without prejudice to the generality of the power conferred by sub-section (1), the Corporation may contribute such sums as it thinks fit towards expenditure incurred or to be incurred by any local authority or statutory public undertaking in the performance, in relation to any of its industrial estates or industrial areas, of any

of the statutory functions of such authority or undertaking, including expenditure incurred in the acquisition of land.

(3) No expenditure other than capital expenditure shall be incurred by the Corporation out of moneys borrowed or received by way of deposits.

22-W. Annual Financial Statements. —(1) The Corporation shall, by such date in each year as may be prescribed, prepare and submit to the Government for approval an annual financial statement and the programme of work for the succeeding financial year.

(2) The annual financial statement shall show the estimated receipts and expenditure during the succeeding financial year in such form and detail as may be prescribed.

(3) With the approval of the Government the Corporation shall be competent to make variations in the programme of work in the course of the year :

Provided that all such variations and reappropriations out of the sanctioned budget are brought to the notice of the Government by a supplementary financial statement.

(4) A copy each of the annual financial statement and the programme of work and the supplementary financial statement, if any, on submission to the Government as soon as may be, shall be placed before the Legislature.

22-X. Books of Account. —(1) The Corporation shall maintain books of account and other books in relation to its business and transactions in such form and in such manner, as may be prescribed.

(2) The accounts of the Corporation shall be audited by an auditor appointed by the Government, in consultation with the Comptroller and Auditor General of India.

(3) As soon as the accounts of the Corporation are audited, the Corporation shall send a copy thereof together with the copy of the report of the auditor thereon to the Government.

(4) The Government shall cause the accounts of the Corporation together with the audit report thereon forwarded to it under sub-section (3) to be laid annually before the Legislature.

22-Y. Audit of Accounts. —(1) Notwithstanding anything contained in section 22-X, the Government may order that there shall be concurrent audit of the accounts

of the Corporation by such person as it thinks fit. The Government may also direct a special audit to be made by such person as it thinks fit of the accounts of the Corporation relating to any particular transaction or class or series of transactions or to a particular period.

(2) The Government may pass such orders on the report of the special audit and the Corporation shall be bound to comply with such order.

(3) The report on the special audit shall be laid before the Legislature of the Union Territory of Jammu & Kashmir.

(4) When an order is made under sub-section (1), the Corporation shall present or cause to be presented for audit such accounts and shall furnish to the person appointed under sub-section (1) such information as the said person may require for the purpose of audit.

22-Z. Acquisition and Disposal of Land. —(1) Whenever any land is required by the Corporation for any purpose in furtherance of the objects of this Act, but the Corporation is unable to acquire it by agreement, the Government may, upon an application of the Corporation in that behalf, order proceedings to be taken under the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 for acquiring the same on behalf of the Corporation as if such lands were needed for a public Purpose within the meaning of the said Act.

(2) The amount of compensation awarded and all other charges incurred in the acquisition of any such land shall be forthwith paid by the Corporation and thereupon the land shall vest in the Corporation.

22-AA. Land to be Placed at the Disposal of the Corporation. —(1) For the furtherance of the objects of this Act, the Government may, upon such conditions as may be agreed upon between it and the Corporation, place at the disposal of the Corporation any lands vested in the Government.

(2) After any such land has been developed by, or under the control and supervision of the Corporation, it shall be dealt with by the Corporation in accordance, with the regulations made, and directions given by the Government in this behalf.

(3) If any land placed at the disposal of the Corporation under sub-section (1) is required at any time thereafter by the Government, the Corporation shall replace it at the disposal of the Government upon such terms and conditions as the Government may after consultation with the Corporation determine.

22-AB. Supplementary and miscellaneous provisions under this Chapter. —

(1) If the Corporation after holding a local inquiry, or upon a report from any of its officers or other information in its possession, is satisfied that the owner /allottee/ lessee of any land in an industrial area has failed to provide any amenity in relation to the land which in the opinion of the Corporation ought to be provided or to carry out any development of the land for which permission has been obtained under this Chapter the Corporation may, after giving the owner or allottee or lessee a reasonable opportunity of being heard, serve upon such owner or allottee or lessee a notice requiring him to provide the amenity or carry out the development within such time as may be specified in the notice.

(2) If any such amenity is not provided or any such development is not carried out within the time specified in the notice the Corporation or may itself provide the amenity or carry out the development or have it provided or carried out through such agency as it deems fit :

Provided that, before taking action under this sub-section, the Corporation shall afford reasonable opportunity to the owner/allottee/lessee of the land to show cause why such action should not be taken.

(3) All expenses incurred by the Corporation or the agency employed by it in providing the amenity or carrying out the development together with interest, at such rate as the Government may by order fix, from the date when a demand for the expenses is made from the owner or allottee or lessee until payment, shall be recoverable by the Corporation from the owner or allottee or lessee.

(4) An owner or allottee or lessee aggrieved by a notice issued to him under sub-section (1) may within a period of sixty days from the date on which the notice is served on him file an appeal to the Administrative secretary of Industry and commerce.

(5) In deciding an appeal under sub-section (4), the Administrative Secretary shall exercise all the powers which a court has and follow the same procedure which a court follows in deciding appeals from a decree or order of an original court under the Code of Civil Procedure, 1908 (5 of 1908).

(6) A decision in such appeal shall be final and conclusive.

22-AC. Demolition of Erection of any Building in Certain Cases. —(1) Where the erection of any building in an industrial estate, commercial centre or industrial area has been commenced, or is being carried on, or has been completed, or any existing building is altered, in contravention of the terms on which such building or the land on which it stands is held or granted under this Chapter to any Officer of

the Corporation empowered by it in this behalf may, in addition to any prosecution that may be instituted under this Chapter make an order directing that such erection shall be demolished by the owner/allottee/lessee thereof within such period not exceeding two months as may be specified in the order, and on the failure of the owner/allottee/lessee to comply with the order, the Officer may himself cause the erection to be demolished and the expenses of such demolition shall be recoverable by the Corporation from the owner/allottee/lessee :

Provided that, no such order shall be made unless the owner/allottee/lessee has been given a reasonable opportunity to show cause why the order should not be made.

(2) Any person aggrieved by an order under sub-section (1) may appeal against that order within thirty days from the date thereof to a Committee of the Corporation set up for the purpose by regulations made in this behalf and such Committee may after hearing the parties to the appeal either allow or dismiss the appeal or reverse or vary any part of the order.

(3) The decision of the Committee on the appeal and subject only to such decision the order made by the officer under sub-section (1) shall be final.

22-AD. Discontinuation of Erection of any Building in Certain Cases. —

(1) Where the erection of any building in an industrial estate, commercial centre or industrial area has been commenced, or is being carried on, or has been completed, or any existing building is altered, in contravention of the terms on which such building or the land on which it stands is held or granted under this Chapter, any officer of the Corporation empowered in this behalf may, in addition to any prosecution that may be instituted under this Chapter, make an order requiring the building operations in relation to such erection to be discontinued on and from the date of the service of the order.

(2) Where such building operations are not discontinued in pursuance of the requisition under sub-section (1), the Corporation or the officer empowered as aforesaid may require any police officer to remove the person by whom the erection of the building has been commenced and all his assistants and workmen from the place of the building within such time as may be specified in the requisition, and such police officer shall comply with the requisition accordingly.

(3) After a requisition under sub-section (2) has been complied with, the Corporation or the officer empowered as aforesaid may depute by a written order a police officer or an officer, or employee of the Corporation to watch the place in order to ensure that the erection of the building is not continued.

(4) Any person failing to comply with an order made under sub-section (1) shall, on conviction, be punished with fine, which shall not be less than five thousand rupees, but may extend to ten thousand rupees, during which such non-compliance continues after the service of the order.

(5) No compensation shall be claimable by any person for any damage or loss which he may sustain in consequence of any order made under this section.

(6) The cost of employing any police officer under this section shall initially be borne by the Corporation but it shall be recoverable from the person who failed to comply with an order made under sub-section (1).

22-AE. Penalties. —(1) Any person who whether at his own instance or at the instance of any other person undertakes or carries out construction of or alterations to any building in an industrial estate or industrial area contrary to the terms under which he holds such building or land under this Chapter shall, on conviction, be punished with fine, which shall not be less than five thousand rupees, but may extend to ten thousand rupees.

(2) Any person who uses any land or building in an industrial estate or industrial area contrary to the terms under which he holds such land or building under this Chapter, or in contravention of the provisions of any regulations made in this behalf shall, on conviction, be punished with fine, which shall not be less than five thousand rupees, but may extend to ten thousand rupees.

22-AF. Other Powers of Corporation. —(1) (a) For the purpose of,—

- (i) use of water sources, carrying gas, water or electricity within any area taken up for development under sub-clause (b) of clause (ii) 22-M (herein after referred to as “the said area”); or
- (ii) constructing any sewers or drains necessary for carrying off workings and waste liquids of an industrial process through the said area,

the Corporation may, after giving reasonable notice to the owner or occupier of any building or land in the said area, lay down, place, maintain, alter, remove, or repair any pipes, pipelines, conduits, supply or service lines, posts other appliances or apparatus in, on, under, over, along or across any land in the said area.

(b) For the purpose of,—

- (i) carrying gas, water or electricity from a source of supply to an industrial estate, commercial centre or industrial area, such source of supply

being in an area outside such estate, centre or area (hereinafter referred to as “an outside area”) ; or

- (ii) constructing any sewers or drains necessary for carrying off workings and waste liquids of an industrial process to or through an outside area,

any person empowered in this behalf by the Government by notification in the Government Gazette (hereinafter referred to as “the authorized person”), may after giving reasonable notice to the owner or occupier of any building or land in the outside area, lay down, place, maintain, alter, remove or repair any pipes, pipelines, conduits, supply or service-lines, posts or other appliances or apparatus in, on, under, over, along or across any land in the outside areas.

(2) The Corporation or as the case may be, the authorized person may at any time enter upon any land in any such area and in such event the provisions of section 22- AG shall mutatis mutandis apply.

(3) While exercising the power conferred by sub-section (1), the Corporation or the authorized person shall—

- (i) where the land affected is a street, bridge, sewer, drain or tunnel, comply mutatis mutandis with the relevant provisions of the Gas Companies Act, 1863, notwithstanding the fact that the Act is not in force in the area or that the Government, has not issued a notification extending such provisions to such land ;
- (ii) cause as little damage as possible to property,

Compensation to all persons interested for extinguishment or modification of rights in property and any damage sustained by them in consequence of the exercise of such powers as aforesaid shall be paid by the Corporation irrespective of whether the area is the said area or the outside area :

Provided that the amount of compensation in lump sum or in the form of annual rent according as the circumstances of the case may require shall be fixed and where necessary apportioned by the Collector in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(4) Nothing herein shall authorize or empower the Corporation or the authorized person to lay down or place any pipe or other works into, through or against any building or in any land not dedicated to public use without the consent of the

owners and occupiers thereof, except that the Corporation or such person may at any time enter upon and lay or place any new pipe in place of an existing pipe in any land wherein any pipe has been already lawfully laid down or placed in pursuance of this Chapter and may repair or alter any pipe so laid down.

Provided that, nothing in the aforesaid provision shall be construed to mean that the Corporation or other person is forbidden from having the said land acquired at any time by the Government in the normal course.

(5) (a) Where the owner or the occupier of any building or land does not reply in writing to the Corporation or the authorized person within a period of fifteen days from the date on which the consent referred to in sub-section (4) is sought, or refuses to give such consent to laying down or placing any pipe or other works into, through or against such building the Corporation or the authorized person shall forthwith make a report in writing of the fact to the Collector.

(b) On receipt of the report, if the Collector, after making any inquiry and after giving the owner and the occupier of such building or land, as the case may be, an opportunity of stating his objection to give such consent is satisfied that for ensuring the full and efficient development of the industrial estate, commercial centers, or as the case may be, industrial area it is necessary to permit the Corporation or the authorized person to lay down or place any pipe or other works into, through or against the building or in the land as contemplated by the Corporation or the authorized person, the Collector shall, notwithstanding anything contained in sub-section (4) by an order in writing, grant the requisite permission to the Corporation or the authorized person.

(c) When such permission is granted, it shall be lawful for the Corporation or the authorized person to lay down or place any pipe or other works into, through or against such building or in such land, as if the necessary consent under sub-section (4) has been given.

22-AG. Power to Enter into/or upon any Land or Building.— Any officer of the Government, any Director of the Corporation and any person either generally or specially authorized by the Corporation in this behalf, may enter into or upon any land or building with or without assistant or workmen for the purpose of—

- (a) making any inspection, survey, measurement, valuation or enquiry or taking levels of such land or buildings ;
- (b) examining works under construction and ascertaining the course of sewers and drains ;

- (c) digging or boring into the sub-soil ;
- (d) setting out boundaries and intended lines of work ;
- (e) marking such levels, boundaries and lines by placing marks and cutting trenches ;
- (f) doing any other thing necessary for the efficient administration of this Chapter ; Provided that,—
 - (i) no such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there be no occupier, to the owner of the land or building ;
 - (ii) sufficient opportunity shall in every instance be given to enable women (if any) to withdraw from such land or building ;
 - (iii) due regard shall always be had, so far as may be compatible, with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the land or building entered.

22-AH. *Controller or Licensing Authority*.— The Government may, by notification in the Government Gazette, nominate any officer of the Corporation to be a controller or licensing authority under any law for the time being in force relating to the procurement or distribution of any commodity in respect of the industrial undertakings or commercial establishments established or to be established in the industrial estates, commercial centers or industrial areas entrusted to or developed by the Corporation and no such nomination shall be called in question merely on the ground that such officer is not an officer of the Government.

22-AI. *Amenity*.— Notwithstanding anything contained in any other law, or in any license or permit, if the Government is satisfied either on a recommendation made in this behalf by the Corporation or otherwise, that these thing up to industrial undertaking or a commercial establishment within an industrial area or outside is impeded by a local authority's refusal to grant, or by such authority's insistence on conditions, which the Government considers unreasonable for the grant of any amenity, the Government may direct the local authority to grant the said amenity on such conditions as it considers fit and there upon the amenity shall be granted :

Provided that, the charge to be paid for granting or continuing such amenity to the local authority concerned is not less than the cost to the local authority or licensee concerned for providing such amenity :

Provided further that, no such direction shall be made by the Government unless the local authority shall have been given a reasonable opportunity to show cause why any such direction should not be made.

22-AJ. *Lease of Land.*— Where any land is leased by the Corporation, the lessee shall, pay to the Corporation before such date or dates as may be prescribed, an amount equal to the land revenue, rent, cesses, rates, and other taxes, if any, payable in respect of such land, which would have been payable by the Corporation had the land not been leased.

22-AK. *Mode of Recovery.*— All sums payable by any person to the Corporation or recoverable by it by or under this Chapter and all charges or expenses incurred in connection therewith shall, without prejudice to any other mode of recovery, be recoverable as an arrear of land revenue on the application of the Corporation.

22-AL. *Service of Notice etc.* —(1) All notices, orders and other documents required by this Chapter, or any rule or regulation made there under to be served upon any person shall save as otherwise provided in this Chapter or such rule or regulation, be deemed to be duly served—

- (a) where the person to be served is a company the service is effected in accordance with the provisions of section 20 of the Companies Act, 2013 ;
- (b) where the person to be served is a firm, if the document is addressed to the firm at its principal place of business, identifying it by the name or style under which its business is carried on, and is either—
 - (i) sent under a certificate of posting or by registered post, or
 - (ii) left at the said place of business ;
- (c) where the person to be served is a statutory public body or a Corporation or a society or other body, if the document is addressed to the secretary, treasurer or other head officer of that body, corporation or society at its principal Office, and is either—
 - (i) sent under a certificate of posting or by registered post, or
 - (ii) left at that office ;
- (d) in any other case, if the document is addressed to the person to be served and—

- (i) is given or tendered to him, or
- (ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building to which it relates ;
- (iii) is sent under a certificate of posting or by registered post to that person.

(2) Any document which is required or authorized to be served on the owner or occupier of any land or building may be addressed “the owner” of “the occupier” as the case may be, of that land or building (naming that land or building) without further name or description, and shall be deemed to be duly served—

- (a) if the document so addressed is sent or delivered in accordance with clause (d) of sub-section (1) ; or
- (b) if the document so addressed or a copy thereof so addressed, is given or tendered to some person on the land or building or, where there is no person on the land or building to whom it can be delivered is affixed to some conspicuous part of the land or building.

(3) Where a document is served on a firm in accordance with this section, the document shall be deemed to be served on each partner (4) For the purpose of enabling any document to be served on the owner of any property, the occupier (if any) of the property may be required by notice in writing by the Government or the Corporation, as the case may be, to state the name and address of the owner/allottee/lessee thereof.

22-AM. Public Notice to be in Writing.— Every public notice given under this Chapter or any rule or made there under shall be in writing over the signature of the officer concerned and shall be widely made known in the locality to be affected thereby by affixing copies thereof in conspicuous public places, within the said locality, or by publishing the same by beat of drum or by advertisement in a local newspaper, or by any two or more of these means, and by other means as the officer may think fit.

22-AN. Prescribing of Time Under Notice.— Where any notice, order or other document issued or made under this Chapter or any rule or regulation made there under requires anything to be done for the doing of which no time is fixed in this Chapter or the rule or regulation, the notice, order or other document shall specify a reasonable period of time for doing the same or complying therewith.

22-AO. *Duty of Corporation to Furnish Returns etc. to Government.* —

(1) The Corporation shall furnish to the Government such returns, statistics, reports, accounts and other information with respect to its conduct of affairs, properties or activities or in regard to any proposed work or scheme as the Government may from time to time require.

(2) The Corporation shall in addition to the audit report referred to in section 22- X furnish to the Government an annual report on its working as soon as may be after the end of each financial year in such form and detail as may be prescribed, and a copy of the annual report shall be placed before the Legislature as soon as may be after it is received by the Government.

22-AP. *Power of Government to Exclude Industrial Estate from the Jurisdiction of Corporation.* —(1) Where the Government is satisfied that in respect of any particular industrial estate, commercial centre or industrial area, or any part thereof, the purpose for which the Corporation was established under this Chapter has been substantially achieved so as to render the continued existence of such estate, centre or area or part thereof under the Corporation unnecessary, the Government may, by notification in the Government Gazette, declare that or such industrial estate, commercial centre or industrial area or part thereof has been removed from the jurisdiction of the Corporation. Thereupon the Government may after consulting the Corporation pass such orders in respect of consequential financial arrangements with the Corporation, and the transfer or apportionment of any assets and liabilities of the Corporation as it may deem fit.

(2) The Government may also make such other incidental arrangements for the administration of such estate, centre or area or part thereof as the Government thinks fit.

22-AQ. *Power of Government in Case of Default by the Corporation.* —(1) If the Government after giving the Corporation an opportunity to render an explanation is satisfied that the Corporation has made a default in performing any duty or obligation imposed or cast on it by or under this Chapter the Government may fix a period for the performance of that duty or obligation and give notice to the Corporation accordingly.

(2) If in the opinion of the Government the Corporation fails or neglects to perform such duty or obligation within the period so fixed for its performance, it shall be lawful for the Government, after having given the Corporation to show cause against such order, by order supersede the Corporation and thereafter reconstitute the Corporation, as it deems fit.

(3) After the supersession of the Corporation and until it is reconstituted in the manner laid down in Chapter, the powers, duties and functions of the Corporation

under this Chapter shall be carried on by the Government or by such officer or officers or body of officers as the Government may appoint for this purpose from time to time, and the cost thereof shall be met from the funds of the Corporation.

(4) All property vested in the Corporation shall, during the period of supersession, vest in the Government.

22-AR. *Dissolving of Corporation.* —(1) The Government if satisfied that the purposes for which the Corporation was established under this Chapter have been substantially achieved so as to render its continuance unnecessary, it may by notification in the Government Gazette declare that the Corporation shall be dissolved with effect from such date as may be specified in the notification, and thereupon the Corporation shall stand dissolved accordingly.

(2) From the said date referred to in sub-section (1),—

- (a) all properties, funds and dues which are vested in, or realizable by, the Corporation shall vest in, or be realizable by, the Government ; and
- (b) all liabilities which are enforceable against the Corporation shall be enforceable against the Government.

22-AS. *No Court to take Cognizance of any Offence under this Chapter.*— Unless otherwise expressly provided no Court shall take cognizance of any offence relating to property belonging or vested by or under this Chapter in the Corporation punishable under this Chapter, except on the complaint of, or upon information received from the Corporation or some person authorized by the Corporation by general or special order in this behalf.

22-AT. *Compounding of Offence.* —(1) The Corporation or any person authorized by the Corporation by general or special order in this behalf may, either before or after the institution of the proceedings compound any offence made punishable by or under this Chapter.

(2) Where an offence is compounded the offender, if in custody shall be discharged and no further proceedings, shall be taken against him in respect of the offence compounded.

22-AU. *Offence Committed by Company.* —(1) Whenever an offence under this Chapter has been committed by a company, every person who at the time the offence was committed was in charge of, or was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed

to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment under this Chapter if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Chapter has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section—

- (a) “company” means any body corporate and includes a firm or other association of individuals ; and
- (b) “director” in relation to a firm, means a partner in the firm.

22-AV. Penalty for Obstruction of Entry of an Authorized Person.— Any person who obstructs the entry of a person authorized under section 22-AG to enter into or upon any land or building or molests such person after such entry or who obstructs the lawful exercise by him of any power conferred by or under this Chapter shall; on conviction, be punished with imprisonment for a term which may extend to six months, or with fine, which shall not be less than five thousand rupees, but may extend to ten thousand rupees.

22-AW. Penalty for Obstruction or Molestation of any Person with whom the Corporation has entered into Contract.— If any person obstructs or molests any person with whom the Corporation has entered into a contract in the performance or execution by such person of his duty or of anything which he is empowered or required to do under this Chapter he shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine, which shall not be less than five thousand rupees, but may extend to ten thousand rupees.

22-AX. Penalty for Removal of any Mark.— If any person removes any mark set up for the purpose of indicating any level, boundary line or direction necessary to the execution of works authorized under this Chapter, he shall, on conviction, be punished with imprisonment for a term which may extend to three months or with

fine, which shall not be less than five thousand rupees, but may extend to ten thousand rupees.

22-AY. Penalty for Obstruction of the Lawful Exercise of any Power.— Any person, who obstructs the lawful exercise of any power conferred by or under this Chapter shall, on conviction, be punished with fine, which shall not be less than five thousand rupees, but may extend to ten thousand rupees.

22-AZ. Power to make Rules.—(1) The Government, after consultation with the Corporation in regard to matters concerning it, may, by notification in the Government Gazette, make rules to carry out the purposes of this Chapter :

Provided that, consultation with the Corporation shall not be necessary on the first occasion of the making of rules under this section, but the Government shall take into consideration any suggestions which the Corporation may make in relation to amendment of such rules after they are made.

(2) In particular and without prejudice to the generality, of the foregoing power such rules may provide for all matters expressly required or allowed by this Chapter to be prescribed by rules and fees which may be charged by the Corporation.

(3) All rules made under this section shall be laid for not less than thirty days before the Legislature as soon as possible after they are made and shall be subject to rescission by the Legislature, or to such modification as the Legislature may make, during the session in which they are so laid, or the session immediate following.

(4) Any rescission or modification so made by the Legislature shall be published in the Government Gazette and shall thereupon take effect.

22-AAA. Power to make Regulations.—(1) The Corporation may, with the previous approval of the State Government make regulations consistent with this Act and the rules made there under, and to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such regulations may provide for all matters expressly required or allowed by this Act to be provided by regulations.

(3) All rules made under this section shall be published in the Official Gazette and shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the Legislature, or to such modification as the Legislature may make, during the session in which they are so laid, or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

22-AAB. *Act done in Good Faith.*— No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Chapter or any rule or regulation made there under.

22-AAC. *Requirement of Prior Notice for Filing of Suit.* —(1) No person shall commence any suit against the Corporation or against any officer or servant of the Corporation or any person acting under the orders of the Corporation for anything done or purporting to have been done in pursuance of this Chapter, without giving to the Corporation, officer or servant or person, as the case may be, two months' previous notice in writing of the intended suit and of the cause thereof, not after six months from the date of the act complained of.

(2) In the case of any such suit for damages if tender of sufficient amount shall have been made before the action was brought, the plaintiff shall not recover more than the amounts so tendered and shall pay all costs incurred by the defendant after such tender.

22-AAD. *Public Servants.*— All Directors, officers and servants of the Corporation shall, when acting "or purporting to act in pursuance of any of the provisions of this Chapter be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

22-AAE. *Overriding Effect.*— The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law.

22-AAF. *Power to Remove Difficulties.*— If any doubt or difficulty arises in giving effect to the provisions of this Chapter the Government may, by order, make provision or give such direction not in consistent with the express provisions of this Chapter as may appear to it to be necessary or expedient for the removal of the doubt or difficulty, and the order of the Government, in such cases, shall be final.]

CHAPTER VIII

SUPPLEMENTAL AND MISCELLANEOUS PROVISIONS

23. *Powers of entry.*— The Authority may authorise any person to enter into or upon any land or building with or without assistants or workmen for the purpose of—

- (a) making any enquiry, inspection, measurement or survey or taking levels of such land or building ;
- (b) examining work under construction and ascertaining the course of sewers and drains ;
- (c) digging or boring into the sub-soil ;
- (d) setting out boundaries and intended lines of work ;
- (e) making such levels, boundaries and lines by placing marks and cutting trenches ;
- (f) ascertaining whether any land is being or has been developed in contravention of the master plan or zonal plan or without the permission referred to in section 13 or in contravention of any condition subject to which such permission has been granted ; or
- (g) doing any other thing necessary for the efficient administration of this Act :

Provided that—

- (i) no such entry shall be made except between the hours of sunrise and sunset without giving reasonable notice to the occupier, or if there be no occupier, to the owner of land or building ;
- (ii) sufficient opportunity shall in every instance be given to enable women (if any) to withdraw from such land or building ;
- (iii) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made to the social and religious usages of the occupants of the land or building entered.

24. *Penalties.* —(1) Any person who whether at his own instance or at the instance of any other person or anybody (including a Department of Government or of a local body) undertakes or carries out development in contravention of the zonal plan or without the permission, referred to in section 13 or in contravention of any condition subject to which such permission, has been granted, shall be punishable with fine which may extend to ¹[Rs. 50,000/-] and in the case of continuing offence, with further fine which may extend to ²[Rs. 2000/-] for everyday during which such offence continues after conviction for the first commission of the offence.

1. Substituted for "Rs. 5000/-" by S.O. 3808 (E) dated 26.10.2020.

2. Substituted for "Rs. 200/-" *ibid.*

(2) Any person who uses any land or building in contravention of the provision of section 15 or in contravention of any terms and conditions prescribed by regulations under the proviso to that section shall be punishable with fine which may extend to ¹[Rs. 30,000/-] and in the case of a continuing offence, with further fine which may extend to ²[Rs. 1,500/-] for everyday during which such offence continues after conviction for first commission of the offence.

(3) Any person who obstructs the entry of a person authorised under section 23 to enter into or upon any land or building or molests such person after such entry shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

25. Order of demolition of building. —(1) Where any development has been commenced or is being carried on or has been completed in contravention of a zonal plan or without the permission, referred to in section 13, or in contravention of any conditions subject to which such permission has been granted, any officer of the Authority empowered by it in this behalf may, in addition to any prosecution that may be instituted under this Act, make an order directing that such development shall be removed by demolition, filling or otherwise by the owner thereof or by the person at whose instance the development has been commenced or is being carried out or has been completed, within such period (not being less than five days, and more than fifteen days from the date on which a copy of the order of removal, with a brief statement of the reasons therefor has been delivered to the owner or that person) as may be specified in the order and on his failure to comply with the order, the officer of the Authority may remove or cause to be removed the development and the expenses of such removal shall be recovered from the owner or the person at whose instance the development was commenced or was being carried out or was completed, as arrears of land revenue :

Provided that no such order shall be made unless the owner or the person concerned has been given a reasonable opportunity to show cause why the order should not be made.

(2) Any person aggrieved by an order under sub-section (1) may appeal to the Government against that order within thirty days from the date thereof, and the Government may after hearing the parties to the appeal, either allow or dismiss the appeal or may reverse or vary any part of the order.

(3) The decision of the Government on the appeal and subject only to the such decision, the order under sub-section (1) shall be final and shall not be questioned in any Court.

1. Substituted for "Rs. 3000/-" by S.O. 3808 (E) dated 26.10.2020.

2. Substituted for "Rs. 150/-" *ibid.*

26. *Power to stop development.* —(1) Where any development in any area has been commenced in contravention of a zonal plan, or without the permission, referred to in section 13 or in contravention of any conditions subject to which such permission has been granted, the Authority or any officer of the Authority empowered by it in this behalf may, in addition to any prosecution that may be instituted under this Act and without prejudice to the provisions of section 25, make an order requiring the development to be discontinued on and from the date of the service of the order, and such order shall be complied with accordingly.

(2) Where such development is not discontinued in pursuance of the order under sub-section (1), the Authority or the officer of the Authority or the competent authority, as the case may be, may require any police officer to remove the person by whom the development has been commenced and all his assistants and workmen from the place of development, within such time as may be specified in the requisition, and such police officer shall comply with the requisition accordingly.

(3) After the requisition under sub-section (2) has been complied with, the Authority or the officer of the Authority, as the case may be, may depute by a written order a police officer or an officer or employee of the Authority to watch the place in order to ensure that the development is not continued.

(4) Any person failing to comply with an order under sub-section (1) shall be punishable with fine which may extend to ¹[two thousand rupees] for everyday during which the non-compliance continues after the service of the order.

(5) No compensation shall be claimable by any person for any damage which he may sustain in consequence of the removal of any development under section 25 or the discontinuance of the development under this section.

27. *Offences by companies.* —(1) If the person committing any offence under this Act is a company, every person, who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence

1. Substituted for "two hundred rupees" by S.O. 3808 (E) dated 26.10.2020.

has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary, or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section “Company” means a body corporate and includes a firm or other association of individuals.

28. *Fines when realised to be paid to Authority.*—All fines realised in connection with prosecutions under this Act shall be paid to the Authority.

29. *Composition of offences.*—(1) Any offence made punishable by or under this Act, may, either before or after the institution of proceedings, be compounded by the Authority or any person authorised by the Authority by general or special order in this behalf.

(2) Where an offence has been compounded the offender, if in custody, shall be discharged and no further proceeding shall be taken against him in respect of the offence compounded.

30. *Default powers of Authority.*—(1) If the Authority after holding a local enquiry or upon report from any of its officers or other information in its possession, is satisfied that any amenity in relation to any land or building in a zone has not been provided in relation to any land or building which in the opinion of the Authority is to be provided, it may, after affording a reasonable opportunity to show cause, serve upon the person providing or responsible for providing amenity a notice requiring him to provide the amenity or carry out the development within such time as may be specified in the notice.

(2) If any amenity is not provided or any such development is not carried out within the time specified in the notice, then the Authority may itself provide the amenity or carry out the development or have it provided or carried out through such agency as it deems fit :

Provided that before taking any action under this sub-section, the Authority shall afford reasonable opportunity to the person providing or responsible for providing the amenity to show cause as to why such action should not be taken.

(3) All expenses incurred by the Authority or the agency employed by it in providing the amenity or carrying out the development together with interest at such rate as the Government by order fix from the date when a demand for the expenses is made until payment may be recovered by the Authority from the person

providing or responsible for providing the amenity, as arrears of land revenue.

31. *Power of Authority to require local authority to assume responsibility for amenities in certain cases.*—Where any area has been developed by the Authority, the Authority may require the local authority or a department of the Government within whose local limits the area so developed is situated, to assume responsibility for the maintenance of the amenities which have been provided in the area by the Authority and for the provision of the amenities which have not been provided by the Authority but which in its opinion should be provided in the area, [x x x x].

32. *Power of levy betterment charges.*—(1) Where in the opinion of the Authority, as a consequence of any development having been in any zone, the value of any property in that zone or executed by the Authority in any area other than the zone, which has been benefited by the development, has increased or will increase, the Authority shall be entitled to levy upon the owner of the property or any person having an interest therein a betterment charge in respect of the increase in value of the property resulting from the execution of the development :

Provided that no betterment charge shall be levied in respect of lands owned by Government or any local authority.

(2) Such betterment charges shall be an amount—

- (i) in respect of any property situate in a zone equal to one-third of the amount, and
- (ii) in respect of property situate in any other area not exceeding one-third of the amount,

by which the value of the property on the completion of the execution of the development estimated as if the property were clear of buildings, exceeds the value of the property prior to such execution estimated in like manner :

Provided that in levying betterment charges on any property under clause (ii), the Authority shall have regard to the extent and nature of benefit accruing to the property from the development and such other factors as may be prescribed by rules made in this behalf.

33. *Assessment of betterment charges by Authority.*—(1) When it appears to the Authority that any particular development plan is sufficiently advanced to enable the amount of the betterment charges to be determined, the Authority may,

1. Certain words omitted by S.O. 3808 (E) dated 26.10.2020.

by an order made in this behalf, declare that for the purpose of determining the betterment charges the execution of the plan shall be deemed to have been completed and shall thereupon give notice in writing to the owner of the property or any person having an interest therein that the Authority proposes to assess the amount of the betterment charge in respect of the property under section 32.

(2) The Authority shall then assess the amount of betterment charges payable by the person concerned after giving such person an opportunity to be heard and such person shall, within three months from the date of receipt of the notice in writing of such assessment from the Authority, inform the Authority by a declaration in writing that he accepts the assessment or dissents from it.

(3) When the assessment proposed by the Authority is accepted by the person concerned within the period specified in sub-section (2), such assessment shall be final.

(4) If the person concerned dissents from the assessment or fails to give the Authority the information required by sub-section (2) within the period specified therein, the matter shall be determined by an arbitrator in the manner provided in section 34.

34. Settlement of betterment charge by arbitrator.—(1) For the determination of the matter referred to in sub-section (4) of section 33, the Government shall appoint an arbitrator who shall have special knowledge of the valuation of land.

(2) The arbitrator shall, for the purpose of determining any matter referred to him, have the same powers as are vested in a civil court under ¹[the Code of Civil Procedure, 1908 (5 of 1908)] when trying a suit, in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of documents ;
- (c) administering to any party to the arbitration such interrogatories as may, in the opinion of the arbitrator, be necessary.

(3) If the arbitrator dies, resigns, or is removed under sub-section (4) or refuses, or neglects in the opinion of the Government to perform his duties or becomes incapable of performing the same, the Government shall forthwith appoint another fit person to take the place of such arbitrator.

1. Substituted for “the Code of Civil Procedure, Samvat 1977” by S.O. 3808 (E) dated 26.10.2020.

(4) If the Government is satisfied after such inquiry as it thinks fit,—

- (a) that the arbitrator has misconducted himself, the Government may remove him from his office ;
- (b) that the award of the arbitrator has been improperly procured or that any arbitrator has misconducted himself in connection with such award, the Government may set aside the award.

(5) An award which has not been set aside by the Government under clause (b) of sub-section (4) shall be final and shall not be questioned in any court.

(6) The provisions of the ¹[Arbitration and Conciliation Act, 1996 (26 of 1996)] shall not apply to arbitration under this section.

35. *Payment of betterment charge.*—(1) The betterment charge levied under this Act shall be payable in such number of instalments and each instalment shall be payable at such time and in such manner as may be fixed by regulations made in this behalf.

(2) Any arrears of betterment charge shall be recoverable as an arrear of land revenue.

36. *Mode of recovery of moneys due to Authority.*—Any money due to the Authority on account of fees or charges, or from the disposal of lands, buildings or other properties, movable or immovable, or by way of rents and profits, may, if the recovery thereof is not expressly provided for in any other provision of this Act, be recovered by the Authority as arrears of land revenue.

37. *Control by Government.*—(1) The Authority shall carry out such direction as may be issued to it from time to time by the Government for the efficient administration of this Act.

(2) If in, or in connection with, the exercise of its powers and discharge of its functions by the Authority under this Act, any difference or dispute arises between the Authority and the Government, the decision of the Government on such differences or dispute shall be final.

(3) The Government may, at any time, either on its own motion or on application made to it in this behalf, call for the records of any case disposed of or order passed by the Authority for the purpose of satisfying itself as to the legality or propriety of

1. Substituted for “Arbitration Act, Svt. 2002” by S.O. 3808 (E) dated 26.10.2020.

any order passed or direction issued and may pass such order or issue such direction in relation thereto as it may think fit :

Provided that the Government shall not pass an order prejudicial to any person without affording such person a reasonable opportunity of being heard.

38. *Returns and information.*—(1) The Authority shall furnish to the Government such reports, returns and other information as the Government may from time to time require.

(2) Without prejudice to the provisions of sub-section (1), the Government or any officer authorised by the Government in this behalf may call for reports, returns and other information from the Authority in regard to the implementation of the master plan or the zonal plan.

(3) Any person authorised by the Government or the officer referred to in sub-section (2) may enter into or upon any land with or without assistants or workmen for ascertaining whether the provisions of the master plan or the zonal plan are being or have been implemented, or whether the development is being or has been carried out in accordance with such plan.

(4) No such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there be no occupier to the owner of the land or building.

39. *Service of notice, etc.*—(1) All notices, orders and other documents required by this Act or any rule or regulation made thereunder to be served upon any person shall, save as otherwise provided in this Act or such rule or regulation, be deemed to be duly served,—

- (a) where the person to be served is a company, if the document is addressed to the Secretary of the company at its registered office ; or at its principal office or place of business and is either :—
 - (i) sent by registered post, or
 - (ii) delivered at the registered office or at the principal office or place of business of the company ;
- (b) where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of business, identifying it by the name or style under which its business is carried on, and is either,—

- (i) sent by the registered post, or
 - (ii) delivered at the said place of business ;
- (c) where the person to be served is a public body or a corporation or society or other body, if the document is addressed to the Secretary, treasurer or other head officer of that body, corporation or society at its principal office, and is either—
- (i) sent by registered post, or
 - (ii) delivered at that office ;
- (d) in any other case, if the document is addressed to the person to be served, and—
- (i) is given or tendered to him, or
 - (ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business, if within the ¹[Union territory of Jammu and Kashmir] or is given or tendered to some adult members of his family or is affixed on some conspicuous part of the land or building to which it relates, or
 - (iii) is sent by registered post to that person.

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed, “the owner or the occupier” as the case may be, of that land or building (naming that land or building) without further name or description, and shall be deemed to be duly served—

- (a) if the document so addressed is sent or delivered in accordance with clause (d) of sub-section (1), or
- (b) if the document so addressed or a copy thereof so addressed is delivered to some person on the land or building or, where there is no person on the land or building to whom it can be delivered, is affixed to some conspicuous part of the land or building.

(3) Where a document is served on a partnership in accordance with this section, the document shall be deemed to be served on each partner.

1. Substituted for “State” by S.O. 3808 (E) dated 26.10.2020.

(4) For the purpose of enabling any document to be served on the owner of any property, the Authority may by notice in writing require the occupier (if any) of the property to state the name and address of the owner thereof.

(5) Where the person on whom a document is to be served is a minor, the service upon his guardian or any adult member of his family shall be deemed to be service upon the minor.

(6) A servant is not a member of the family within the meaning of this section.

40. *Public notice how be made known.*—Every public notice given under this Act shall be in writing over the signature of such officer of the Authority as it may direct and shall be widely made known in the locality to be affected thereby affixing copies thereof in conspicuous public places within the said locality and announcing the same by beat of drum or by advertisement in local newspaper or by all these means and by any other means that the aforesaid officer may think fit.

41. *Notice, etc. to fix reasonable time.*—Where any notice, order or other document issued or made under this Act or any rule or regulation made thereunder requires anything to be done for the doing of which no time is fixed in this Act or the rule or regulation, the notice, order or other document shall specify a reasonable time for doing the same.

42. *Authentication of orders and documents of the Authority.*—All permissions, orders, decisions, notices and other documents of the Authority shall be authenticated by the signature of such officer of the Authority as may be authorised by the Authority in this behalf.

43. *Members and officers to be public servants.*—Every member and every officer and other employees of the Authority shall be deemed to be a public servant within the meaning of section 21 of the ¹[Indian Penal Code (45 of 1860)].

44. *Sanction of prosecution.*—No prosecution for any offence punishable under this Act, shall be instituted except with the previous sanction of the Authority or any officer authorised by the Authority in this behalf.

45. *Magistrate's power to impose enhanced penalties.*—Notwithstanding anything contained in ²[section 29 of the Code of Criminal Procedure, 1973 (2 of 1974)], it shall be lawful for any Court of a Judicial Magistrate of the first class to pass any sentence authorised by this Act in excess of its powers under the said section.

1. Substituted for "Ranbir Penal Code" by S.O. 3808 (E) dated 26.10.2020.

2. Substituted for "section 32 of Code of Criminal Procedure, 1989" *ibid*.

46. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.

47. *Power to delegate.*—(1) The Authority may, by notification in the *[Government Gazette], direct that any power exercisable by it under this Act, except the power to make regulations, may also be exercised by ¹[the Chairman, Vice-Chairman or such officer] or local authority and in such cases and subject to such conditions, if any, as may be specified therein.

(2) The Government may, by notification in the Government Gazette, direct that any power exercisable by it under this Act, except the power to make rules, may also be exercised by such officer as may be mentioned therein, in such cases and subject to such conditions, if any, as may be specified therein.

48. *Notice to be given of suits.*—(1) No suit shall be instituted against the Authority, or any member thereof, or any of its officers or other employees, or any person acting under the directions of the Authority or any member or any officer or other employees of the Authority in respect of any act done or purporting to have been done in pursuance of this Act or any rule or regulation made thereunder until the expiration of two months after notice, and in any other case, delivered to, or left at the office or place of abode of, the person to be sued and unless such notice states explicitly the cause of action, the nature of relief sought, the amount of compensation claimed and the name and place of residence of the intending plaintiff and unless the plaint contains a statement that such notice has been so left or delivered.

(2) No suit such as is described in sub-section (1) shall, unless it is a suit for recovery of immovable property or for a declaration of title thereto, be instituted after the expiry of six months from the date on which the cause of action arises.

49. *Saving.*—Nothing in this Act shall apply to—

- (a) the carrying out by any local authority or by any department of Government of any works for the purpose of inspecting, repairing, or renewing any drains, sewers, main pipes, cables or other apparatus including the breaking open of any street or other land for that purpose ;
- (b) the erection of a building, not being a dwelling house if such building is required for the purposes subservient to agriculture ;

* Now Official Gazette.

1. Substituted by Act X of 1977, s. 3.

- (c) the construction of a canal, water course, and drainage work as defined in '[the Jammu and Kashmir Water Resources (Regulation and Management) Act, 2010], by any local authority or the department of the Government ;
- (d) the excavation (including wells) made in the ordinary course of agricultural operations ;
- (e) the construction of unmetalled road intended to give access to land solely for agricultural purposes ; and
- (f) the carrying out of works for the maintenance of any building which effect only the interior of the building and which do not materially effect the external appearance of the building.

50. *Plans to stand modified in certain cases.*—(1) Where any land situated in any area is required by the master plan or a zonal plan to be kept as an open space or unbuilt upon or is designated in any such plan as subject to compulsory acquisition, then if at the expiration of five years from the date of operation of the plan under section 11 or where such land has been so required or designated by any amendment of such plan, from the date of operation of such amendment, the land is not compulsory acquired, the owner of the land may serve on the Government a notice requiring his interest in the land to be so acquired.

(2) If the Government fails to acquire the land within a period of six months from the date of receipt of the notice, the master plan or, as the case may be, the zonal plan shall have effect after the expiration of the said six months as if the land were not required to be kept as an open space or unbuilt upon or were not designated as subject to compulsory acquisition.

51. *Power to make rules.*—(1) The Government, after consultation with Authority, may, by notification in the *[Government Gazette], make rules to carry out the purposes of this Act :

Provided that consultation with the Authority shall not be necessary on the first occasion of the making of rules under this section, but the Government shall take into consideration any suggestions which the Authority may make in relation to the amendment of such rules after they are made.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

1. Substituted for "the Jammu and Kashmir State Canal and Drainage Act, Svt. 1963" by S.O. 3808 (E) dated 26.10.2020.

* Now Official Gazette.

- (a) the salaries, allowances and conditions of service of the whole-time paid members of the Authority ;
- (b) the control and restrictions in relation to appointment of officers and other employees ;
- (c) the stages by which the development of any particular zone may be carried out ;
- (d) the form and content of the master plan and a zonal plan and the procedure to be followed in connection with the preparation, submission and approval of such plans and the forms and the manner of publication, of the notice relating to any such plan in the draft ;
- (e) the local inquiries and other hearings that may be held before a plan is approved ;
- (f) the form and manner in which notice under sub-section (3) of section 12 shall be published ;
- (g) the fee to be paid on an application for permission under sub-section (2) of section 14 and the factors and circumstances to be taken into consideration in determining such fee ;
- (h) the manner in which Nazul lands shall be dealt with after development ;
- (i) the factors to be taken into consideration in determining the rate of betterment charge in respect of property situate in any local area ;
- (j) the procedure for referring any matter to the Government under section 31 for settlement of terms and conditions subject to which a local authority may be required to assume responsibility for amenities in any area ;
- (k) the procedure to be followed by arbitrators in the Department for determination of betterment charge ;
- (l) sum of money that may be kept in current account ;
- (m) the procedure to be followed for borrowing moneys by way of loans or debentures and their repayment ;
- (n) the form of the budget of the Authority and the manner of preparing the same ;

- (o) the form of the balance sheet and statement of accounts ;
- (p) the form of the annual report and the date on or before which it shall be submitted to the Government ;
- (q) the manner of constitution of the pension and provident funds for whole-time paid members and officers and other employees of the Authority and the conditions subject to which such funds may be constituted ;
- (r) any other matter which has to be, or may be prescribed by rules.

52. *Power to make regulations.*—(1) The Authority may, with the previous approval of the Government, make regulations consistent with this Act and the rules made thereunder, to carry out the purposes of this Act, and without prejudice to the generality of this power such regulations may provide for—

- (a) the summoning and holding of meetings of the Authority, the time and place where such meetings are to be held, the conduct of business at such meetings and the number of members necessary to form a quorum thereat ;
- (b) power and duties of the officers of the Authority ;
- (c) the salaries, allowances and conditions of service of the officers and employees ;
- (d) the procedure for carrying out of the functions of the Authority under Chapter III ;
- (e) the form in which any application for permission under sub-section (1) of section 14 shall be made and the particulars to be furnished in such applications ;
- (f) the terms and conditions subject to which user of lands and buildings in contravention of plan may be continued ;
- (g) the manner of communicating the grounds of refusal of permission for development ;
- (h) the form of the register of the applications for permission and the particulars to be contained in such register ;

- (i) the management of the properties of the Authority ;
- (j) the time and manner of payment of betterment charge ; and
- (k) any other matter which has to be, or may be, prescribed by regulations.

(2) Until the Authority is established under this Act, any regulation which may be made under sub-section (1) may be made by the Government and any regulation so made may be altered or rescinded by the Authority in exercise of its powers under sub-section (1).

53. *Dissolution of the Authority.*—(1) Where the Government is satisfied that the purposes for which the Authority was established under this Act have been substantially achieved or that there are good grounds which render the continued existence of the Authority unnecessary, the Government may, by notification in the **[Government Gazette]*, declare that the Authority shall be dissolved with effect from such date as may be specified in the notification, and the Authority shall be deemed to be dissolved accordingly.

(2) From the said date—

- (a) all properties, funds and dues which are vested in or realisable by, the Authority shall vest in, or be realisable by, the Government ;
- (b) all Nazul lands placed at the disposal of the Authority shall revert to the Government ;
- (c) all liabilities which are enforceable against the Authority shall be enforceable against the Government ; and
- (d) for the purpose of carrying out and development which has not been fully carried out by the Authority and for the purpose of realising properties, funds and dues referred to in clause (a), the functions of the Authority shall be discharged by the Government.

54. *Cessation of the provisions of certain Acts.*—(1) As from the date of operation of plan in a zone, fixed under section 11,—

- (a) the provisions of the Jammu and Kashmir Town Planning Act, 1963 ;
- (b) Chapter XXI of the Jammu and Kashmir Municipal Act, 2008 ;

* Now Official Gazette.

- (c) Clause (4) of section 45 and section 46 of the Jammu and Kashmir Town Area Act, 2011 ;

shall cease to apply in the zone in which the plan is operated, for such period as the Government may by notification specify.

(2) Notwithstanding the provisions of sub-section (1)—

- (a) anything done or any action taken (including permission for erection, re-erection or development granted) under the provisions of any of the aforesaid laws shall continue to be in force and be deemed to have been done or taken under the provisions of this Act unless and until it is superseded by the competent authority under this Act ;
- (b) all suits, prosecutions and other legal proceedings instituted or which might have been instituted for or against the Municipality or Town Area Committee or any other authority under the said provisions of the aforesaid Acts may be continued or instituted by, for or against the Municipality, Town Area Committee or the authority, as the case may be.

55. *Power to remove difficulties.*—If any difficulty arises in giving effect to the said provisions of this Act in their application to a zone or a local area, the Government may by order make such provisions or give such direction not inconsistent with the provisions of this Act as appears to the Government to be necessary or expedient for removing the difficulty.

56. *Repeal and saving.*—(1) The Jammu and Kashmir Development Ordinance, 1970 (IV of 1970) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any appointment, delegation, order, scheme, permission, notification, rule, regulation or form made, granted or issued) under the said Ordinance shall be deemed to have been done, taken, made, granted or issued under the provisions of this Act as if this Act had come into force on the 15th day of September, 1970.

¹[57. *Development of housing colonies outside local areas.*—Notwithstanding anything contained in this Act or in any other law for time being in force,—

(1) The Authority may undertake development of a housing colony in any area other than a local area and for that purpose prepare with the previous approval of the Government, a plan containing—

1. Section 57 added by Act XXVI of 1976, s. 2.

- (a) a site-plan and use-plan for the development of the colony indicating the approximate locations and extents of land uses, proposed in the colony for such things as public buildings and other public works and utilities, roads, housing recreation, markets, schools, hospitals and public and private open spaces and other categories of public and private uses ;
- (b) standards of population density and building density ;
- (c) provisions regarding all or any of the following matters, namely :—
 - (i) the division of any site into plots for the erection of buildings ;
 - (ii) the allotment or reservation of land for roads, open space, gardens, recreation grounds, schools, market and other public purposes ;
 - (iii) the erection of buildings on any site and the restrictions and conditions in regards to the open spaces to be maintained in or around buildings and height and character of buildings ;
 - (iv) the alignment of buildings in the colony;
 - (v) the architectural features of the elevations or frontage of any building to be erected on any site in the colony ;
 - (vi) the number of residential buildings, which may be erected on any plot or site ;
 - (vii) such other matters as may be necessary in connection with the development of a housing colony.

(2) The Authority shall publish the plan, as approved by the Government in the *[Government Gazette] and thereupon the provisions of this Act, shall apply to the development of such housing colony subject to the following exceptions and modifications, namely :—

- (a) in section 2—
 - (i) clause (e) shall be omitted ; and

* Now Official Gazette.

(ii) clause (k) shall be substituted by the following clause, namely :—

“(k) ‘Zone’ means any area specified in the plan for the development of a housing colony under this section.” ;

(b) in section 3 sub-section (1) shall be omitted ;

(c) sections 7, 8, 9, 10, 12 and 12-A shall be omitted ;

(d) for section 11, the following section shall be substituted, namely:—

“11. The date of publication of the plan in the *[Government Gazette] shall be the date of its operation.”

(e) in sub-section (3) of section 14, for the words, brackets, letter and figures “in clause (d) of sub-section (2) of section 8”, the words, brackets, letter and figures “in sub-clause (c) of clause (1) of section 57” shall be substituted ;

(f) in sub-section (2) of section 51 clause (f) shall be omitted ;

(g) in sub-section (1) of section 52 clause (d) shall be omitted ;

(h) in the application of this Act to the development of the housing colony—

(i) the area covered under the plan for the development of the housing colony, shall be deemed to be a duly declared local area ;

(ii) the Development Authority, as may be specified by the Government by notification in the *[Government Gazette], shall be deemed to be the Development Authority duly constituted for the housing colony ;

(iii) reference to the master plan or the zonal plan or the plan, with their grammatical variations, wherever occurring, shall be construed as references to the plan under this section ; and

(iv) any reference to local area shall be construed to be the area covered under the plan under this section.]

* Now Official Gazette.